

In the
Indiana Supreme Court



IN THE MATTER OF THE)
)
APPROVAL OF LOCAL RULES)
)
FOR SHELBY COUNTY)

Case No. 73S00-0904-MS- 165

ORDER APPROVING AMENDED LOCAL RULES

The judges of the Shelby Circuit and Superior Courts request the approval of amended local rules: for caseload allocation in accordance with Ind. Administrative Rule 1(E), appointment of special judges in criminal cases in accordance with Ind. Criminal Rule 13, and appointment of special judges in civil cases in accordance with Ind. Trial Rule 79. Attached to this Order are the proposed amended local rules.

Upon examination of the proposed rule amendments requested by the Shelby Circuit and Superior Courts, this Court finds that the proposed rule amendments, LR73-CR2.2 Rule 1 and LR73-TR76-2, comply with the requirements of Ind. Administrative Rule 1(E), Ind. Criminal Rule 13 and Ind. Trial Rule 79, and accordingly, should be approved.


IT IS, THEREFORE, ORDERED by this Court that Shelby County Local Rules, LR73-CR2.2 Rule 1 and LR73-TR76-2, set forth as an attachment to this Order, are approved effective April 8, 2009, provided further that the rules shall be posted in the county clerk's office(s) and on the county clerk's website, if any, and on the Court's website.

The Clerk of this Court is directed to forward a copy of this Order to the Hon. Charles D. O'Connor, Jr., Shelby Circuit Court, 407 South Harrison Street, Shelbyville, IN 46176-2170; the Hon. Jack A. Tandy, Shelby Superior Court, 407 South Harrison Street, Shelbyville, IN 46176-2170; the Hon. Russell J. Sanders, Shelby Superior Court, 407 South Harrison Street, Shelbyville, IN 46176-2170; and to the Clerk of the Shelby Circuit Court. The Clerk is also directed to post this Order on the Court's website.

The Clerk of the Shelby Circuit Court is directed to enter this Order and attachment in the Record of Judgments and Orders for the Courts, to post this Order and attachment for examination

by the Bar and the general public, and if available, to publish this Order and attachment on the county clerk's website.

DONE at Indianapolis, Indiana, this 16th day of April, 2009.



Randall T. Shepard
Chief Justice of Indiana

LR73-CR2.2 Rule 1. Criminal caseload Assignment

(a) All misdemeanors and class D Felony Driving While Intoxicated cases shall be filed in Shelby Superior No. 2;

(b) All felonies, except class D Felony Driving While Intoxicated cases, (hereafter "pool felonies") shall be assigned on a random basis among the three courts by the Shelby County Clerk with Shelby Superior No. 1 receiving ~~sixty~~ forty-five percent (45%) of said cases, Shelby Circuit receiving forty-five percent (45%) of said cases and Shelby Superior No. 2 receiving ten percent (10%) of said cases;

(c) The most serious level of charge filed determines if the case is assigned automatically to Shelby Superior No. 2 or if the case is randomly assigned by the Shelby County Clerk;

(d) When the State of Indiana dismisses a pool felony case and chooses to refile that case, the case shall be assigned to the court from which dismissal was taken;

(e) All co-defendants in pool felony cases shall be assigned to the same court based upon a single random draw by the Shelby County Clerk;

(i) The Shelby County Prosecutor's Office shall notify the Clerk at the time of filing if the cases involve co-defendants;

(ii) Each case will be assigned an individual cause number;

(iii) For purposes of this Rule, the cases involve co-defendants if:

(1) the cases arise from a common scheme or plan;

(2) the cases are closely connected in respect to time, place, occasion or events;

(3) each of the defendants is charged with substantially the same or overlapping offenses;

(4) one or more of the defendants is alleged to have aided, induced or conspired with another defendant to commit an offense charged; or

(5) the defendants could be joined in the same indictment or information under I.C. 35-34-1-9.

(f) Except in felony cases involving co-defendants as defined above, any new pool felony case filed against a defendant who has an open pool felony case already pending in any Court, shall be assigned to the Court where the current case is pending. The Shelby County Prosecutor's Office shall notify the Clerk at the time of filing if the defendant has a pending pool felony case.

(g) A judge of Shelby Circuit or a Superior Court may, by appropriate order entered in the Record of Judgments and Orders, transfer and reassign to any other court of record in the county with jurisdiction to hear the charged offense(s), any pending case subject to acceptance by the receiving court, where the interests of justice or the interest of judicial economy so require.

(h) The prosecuting attorney or the defendant may seek to transfer a case, and upon good cause shown, a case may be transferred to any of the other courts for consolidation with a companion case, or with other cases pending in that court against the defendant with the acceptance of the judge of the receiving court.

(i) In the event a motion for change of judge is granted or it becomes necessary to reassign a felony or misdemeanor case in Shelby Circuit or Shelby Superior Courts, the Clerk shall maintain a list containing the names of the judges of the Shelby County Courts and the names of the judges of the circuit and superior courts of Hancock, Rush, Decatur, Bartholomew and Johnson Counties, who have agreed to serve. Whenever an appointment of a successor judge becomes necessary the case shall be reassigned to one of the judges on the Clerk's list on a rotation basis.

(j) Should a judge not be available for assignment from the Clerk's list or the particular circumstances of the case require a selection of a special judge by the Indiana Supreme Court, the case shall be certified to the Indiana Supreme court pursuant to Criminal Rule 13(d).

- A. Selection of special judges in cases involving a change of judge, disqualification or recusal.
1. Pursuant to T.R. 79 (D), parties to a civil action may agree with consent of the judge selected to any particular judge.
 2. Pursuant to T.R. 79 (E), in absence of an agreement as to a particular special judge, the parties, alternatively, may agree to have the regular sitting judge appoint a special judge.
- B. Additional procedures for selection of special judges in cases involving a change of judge.
1. In the absence of an agreement as to a particular special judge, pursuant to A(1) above, or an agreement to have the regular sitting judge appoint a special judge, pursuant to A(2) above, then pursuant to T.R. 79(F), the regular sitting judge shall name a panel of three judges including the other Shelby County Circuit or Superior Court judge(s) and one judge from Hancock County or Johnson County. However, if a party to a case is a member of the family of any Shelby County Judge, then the judge shall appoint a panel of judge(s) from Hancock County or Johnson County. For purposes of this rule, a member of the judge's family shall be defined in the Code of Judicial Conduct.

If Shelby County does not have a sufficient number of regular sitting judges, then the sitting judge shall name a panel including the available local judge(s) and judge(s) from Hancock County or Johnson County.

If a special judge selected under section (B) does not accept the case then the Clerk of Shelby County shall randomly select from the Judges of Shelby County, Hancock County, and Johnson County.

- C. Selection of special judges in cases involving disqualifications or recusals.
1. In the absence of an agreement as to a particular special judge, pursuant to A(1) above, or an agreement to have the regular sitting judge appoint a special judge, pursuant to A(2) above, then the Clerk of Shelby County shall, on a rotating basis select a judge remaining from the judges of Shelby, Hancock and Johnson Counties.
- A person appointed to serve as special judge under section (C) must accept jurisdiction unless disqualified under the *Code of Judicial Conduct*, ineligible for service under Ind. Trial Rule 79 or excused by the Indiana Supreme Court.

D. A judge of Shelby Circuit or a Superior Court may, in the interests of justice or judicial economy, transfer and reassign a civil case to any other court of record in Shelby County by appropriate order entered in the Record of Judgments and Orders, subject to acceptance by the receiving court.

E. Certification to the Indiana Supreme Court.

If no Special Judge accepts appointment using any of the methods recited herein above, the regular sitting judge shall certify to the Supreme Court for naming of a special judge. The sitting judge may forego the requirements set forth herein and certify immediately to the Indiana Supreme Court for the appointment of a special judge if the particular circumstances of a case warrant selection of a special judge by the Indiana Supreme Court.